

**Testimony of Jennifer L. Windsor  
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Before  
The Committee on International Relations  
Subcommittee on Africa, Global Human Rights and  
International Operations  
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**Mr. Chairman:**

**Freedom House welcomes the opportunity to testify on the proposed reforms to the human rights mechanism of the United Nations. Freedom House was established in 1941 for the specific purpose of mobilizing the domestic public for the fight against fascist totalitarianism. We, like others, invested great hopes in the United Nations as an institution that would not simply contribute to world peace, but would work towards the spread of the rights and freedoms that are essential to a peaceful environment.**

**It was Eleanor Roosevelt, a Freedom House leader in our early years, who, as a member of the original UN Human Rights Commission, chaired the committee that drafted the Universal Declaration of Human Rights. When Mrs. Roosevelt described the Declaration as “a Magna Carta for mankind everywhere,” she was, as well, expressing the hope that the United Nations itself would vigorously promote the spread of freedom around the world. Her optimism may have been provoked by her ability to build a consensus around the Universal Declaration, even in the face of an obstructionist Soviet Union and differences over the rights of asylum seekers, freedom of marriage partner, religious freedom, and other contentious issues.**

**Eleanor Roosevelt and her colleagues on the Human Rights Commission achieved great things in 1947. The Commission also left an important legacy in elaborating human rights norms which are now embodied in international treaty law. Sadly, those achievements stand in sharp contrast to the deplorable record of the Human Rights Commission today.**

**As we speak, the annual session of the Human Rights Commission in Geneva is drawing to a close. And once again, as in recent years, the Commission has failed to take action against the most egregious violators of universal human rights standards.**

**To be sure, the Commission did manage to issue watered down condemnations of three of the worst violators: North Korea, Belarus, and Cuba. This was regarded as evidence of modest progress. At the same time, attempts to condemn the records of Sudan and Zimbabwe have so far failed, and the United States decided in advance not to introduce a resolution condemning China's record.**

**There are a number of reasons for the Commission's failures. At the core, however, is the ability of a coalition of dictatorships and tyrannies to influence the Commission's agenda and thwart positive action. This negative coalition has but one objective: to block, impede, and obstruct attempts to deal with on the ground violation of rights—including the persecution of minorities, the repression of religious believers, man-made famine and genocide.**

**Each year, Freedom House publishes an index that measures the state of freedom throughout the world. We assess and rate countries as to their degree of political rights and civil liberties. The findings of our survey are relevant to the debate over the Commission.**

**Thus, of the 53 member states of the commission, 14, or slightly over one-quarter, are among the countries Freedom House ranks as Not Free, meaning a systematic suppression of democratic rights and massive violations of human rights. Another 17 countries are ranked as Partly Free, in which some democratic freedoms prevail. By contrast, 22 countries, or 42 percent of the membership, have attained a Freedom House designation as Free. As I will describe later in my testimony, the democracies that together comprise a plurality of the Commission's membership, fail to work together as a cohesive bloc, unlike their fewer, yet disproportionately more powerful, non-democratic counterparts.**

**Among the 14 Not Free countries, six are given the lowest rankings possible and are among the world's most repressive regimes—the worst of the worst, according to Freedom House. They include China, Cuba, Eritrea, Saudi Arabia, Sudan, and Zimbabwe. Another country on the**

**Commission, Nepal, recently suspended its elected parliament and declared what amounts to a state of martial law. And as we all know from the 2003 Commission session, one of the world's worst regimes – Libya -- can even be Chair of the Commission.**

**All these facts have resulted in a crisis of legitimacy for the institution and in the discrediting of the United Nations in the eyes of the US public, international public opinion, human rights organizations, and democracy groups, not to speak of victims of persecution around the world.**

**The crisis of the commission was described in great detail by the High Level Panel. Unfortunately, its recommended solution – to make all countries at the UN General Assembly members of the Human Rights Commission – would be a disaster. We believe that the proposal made by Secretary General Kofi Annan, on the other hand, merits support, as it opens the door to potential improvements in the system. The Secretary General has suggested replacing the Commission with a new – smaller -- Human Rights Council which would elevate the topic of human rights to the level of the Security Council and the Economic and Social Council. He has proposed a voting mechanism that would enable the full UN General Assembly membership to approve candidacies by a two-thirds margin. This is an important safeguard against letting the worst of the worst on to the new Human Rights Council. Such a vote, he has made clear, would allow states to examine candidacies in the light of some criteria of membership.**

**The two-thirds requirement would help prevent the usual ratification of choices presented by regional blocs because a regional bloc's candidate would need to win votes from a sizable majority of member states from other regions. This would represent an important improvement. For while free societies now represent nearly half the UN membership and elected democratic governments (as tracked by Freedom House) now numbers 118, they are concentrated overwhelmingly in the Western and Other Group and in the Americas Group.**

**Adopting the two-thirds vote requirement, therefore, improves the chances for better choices and lessens the prospects for favor-trading and getting along with neighboring states whatever their rights record—a practice that is common today. But it does not guarantee**

**that outcome. Regional groupings could still decide to put candidates forward, although presumably those recommendations could be blocked by the democracies at the General Assembly level.**

**Thus, while the call for reform deserves unqualified support, as does the effort to submit the vote to the broad UN membership, other specifics of how the reform is to be implemented will need to be addressed to ensure the Secretary General's intention – to create a body that is genuinely committed to addressing violations of human rights -- is actually realized.**

**Having observed the UN rights system at close hand, we feel we are well qualified to offer some suggestions. Among the factors that the U.S. and other democracies should seek to include are the following:**

- a) The setting of minimum standards for eligibility and setting standards for disqualification. At a minimum these standards should be the exclusion of any country currently under UN Security Council sanction. A second standard should be the exclusion of any state that denies entry to and/or blocks the reporting of UN rapporteurs. Ideally, Freedom House would support the inclusion of additional criteria drawn from the Warsaw Declaration and the Seoul Plan of Action from the Community of Democracies process, which the Secretary General referenced in his report.**
- b) Ensure that while there is a regional balance in the membership of the new Human Rights Council that the vote on specific candidacies be made by the full UN membership.**
- c) Eliminate the evasive parliamentary maneuver of “no action” motions, thus ensuring that all filed resolutions that are put to a vote are voted up or down on the merits.**
- d) Move the new Council to UN headquarters, which would permit smaller countries (including small, island countries) where democracy as a rule prevails to serve on the new HR Council.**

**There are other issues that frankly are more difficult to assess, but deserve serious discussion. Although an exact number of states on the Council has not been proposed, a reduction of the number would set up a far more competitive process, with many countries potentially competing for a lesser number of places.**

**Most of my comments thus far have been directed at the reform of the Human Rights Commission. However, the Secretary General has also proposed a number of reforms to ECOSOC. In the past, the membership of ECOSOC has also been problematic because of the role that ECOSOC has played in determining the membership of the Human Rights Commission. If the Secretary's proposed reforms are undertaken and elections to a new Human Rights Council occur through a vote of the full UN membership, then ECOSOC will assume a lesser importance in the area of political rights and civil liberties. But ECOSOC will continue to have importance for pro-democracy and rights groups because of the role of ECOSOC Committee on non-governmental organizations, the body that determines accreditation and de-certification of non-governmental organizations within the United Nations system.**

**In the last decade, some of the most repressive regimes have lobbied and succeeded in being elected to the ECOSOC Committee on NGOs, which frankly is regarded as a backwater by many of the democracies. As a result, authoritarian governments have used the NGO committee to block legitimate NGOs concerned with basic rights issues from accreditation. The dictatorships on the ECOSOC Committee on NGOs also have launched long-term investigations and sought sanctions against a broad array of NGOs, with the aim of suspending them, sanctioning them, or stripping them of UN accreditation. Such groups as Freedom House, the Transnational Radical Party –global libertarian NGO led among others by the European Union's former Humanitarian Affairs Commissioner—and Reporters without Borders, all have been subject to these challenges in recent years.**

**This is another area of potential engagement for the Democracy Caucus. ECOSOC's membership includes several democracies and they should be encouraging and supporting one another's candidacies for membership on the NGO Committee, as well as on ECOSOC, just as they should for the CHR (so long as it exists). They should also make**

clear to the NGO Committee that protracted investigations of rights-related NGOs will not be tolerated, if only because of the inordinate amount of time and resources expended by the Committee to review and air complaints, often at the cost of addressing their other agenda items. The Secretary General's recommendations regarding ECOSOC do not address these points explicitly, but we hope that as reforms are considered that this at times antagonistic tendency by the ECOSOC Committee on NGOs is counteracted. We are pleased that the Secretary General, in fact, has reaffirmed the importance of NGO engagement with the new Human Rights Council.

Finally, we support the Secretary General's call for increased support and relevance of the High Commissioner's office, including involvement in the deliberations of the Security Council.

But no matter what reforms are suggested in which body, the rights monitoring efforts will not work unless the democracies at the UN find common cause. The best mechanism for common cause is the emerging—but weak—UN Democracy Caucus, which in itself is an outgrowth of the Community of Democracies.

The US should make a priority of coming to agreement with European Union, the countries of the British Commonwealth, and with the OAS on strengthening the UN Democracy Caucus.

There are problems even within the UN Democracy Caucus. Several strong and admirable democracies like India and South Africa, for example, are loath to endorse country-specific resolutions that would target some of the world's worst rights violators.

The UN Democracy Caucus operates under the principle of consensus among its members, which are the states invited to participate in the Community of Democracies process. The 10 members of the Coordinating Group, which includes the U.S., Chile (the current chair) Mexico, Portugal, South Korea, Czech Republic, Poland, Mali, South Africa, and India also operate by consensus. To be effective, it needs to adopt rules that would enable them to act on the basis of a super-majority.

**The discussion of reform of the UN rights commission, therefore, needs to be seized upon by the UN Democracy Caucus and its parent, the Community of Democracies, which is meeting in Santiago April 28-30<sup>th</sup> at the Foreign Minister level, with Secretary of State Condoleezza Rice heading the U.S. delegation.**

**The Santiago Ministerial Meeting is an ideal opportunity for the democratic states to agree on common positions regarding the Secretary General's recommendations. There is also an opportunity to change the rules regarding what constitutes consensus on rights related issues within the UN Democracy Caucus.**

**If this can be done both at Santiago and in the months leading up to September's General Assembly session, we can stand on the threshold of a new, more effective era in human rights monitoring and support for democracy at the UN.**

**But with all due respect for the Secretary General and his excellent proposals, none of his suggested reforms will work unless there is coordination and cooperation among the democracies and countries on the path to democracy, which represent a latent but unrealized force at the UN.**

**Thank you again for the opportunity to present our views on this important topic.**